



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 080034

Petitioners, Kendra and Peter Wilde, applied to the Building Commissioner for permission to enlarge an existing garage and add a storage shed on the side of the garage opposite their home at 280 Warren Street, Brookline, MA. The Building Commissioner denied the petitioner's application since the addition violated the Zoning By-Law, and an appeal was taken to this Board.

On August 14, 2008 the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals. The Board then fixed the date of September 11, 2008 at 7:15 p.m. on the second floor of the Main Library as the time and place of a hearing of the appeal. Notice of the hearing was mailed to petitioners and their attorney, (if any of record), to owners of properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on August 21st and 28th 2008 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

LEGAL NOTICE

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
NOTICE OF HEARING

Petitioners: **WILDE, PETER AND KENDRA**

Location of Premises: **280 WARREN ST. BRKL**

Date of Hearing: **09/11/2008**

Time of Hearing: **7:15 p.m.**

Place of Hearing: **Main Library, 2nd Floor**

A public hearing will be held for a Special Permit from

5.43; Exceptions to Yard and Setback Areas, Special Permit Required.

5.70; Rear Yard Requirements, Variance Required.

8.02.2; Alteration or Extension, Special Permit Required of the Zoning By-Law to construct an addition as per plans at **280 WARREN STREET BRKL**

Said premises is located in an **S-40** (Single Family) Residence District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, or access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Co-ordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2330; TDD (617) 730-2327.

Enid Starr
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At the time and place specified in the notice a public hearing was held by this Board.

Present were Enid Starr, Chairman, Robert DeVries and Kathryn Ham.

The petitioners were represented by Attorney Jacob Walters of Goldenberg & Walters of Seven Harvard Street in Brookline. Mr. Walters stated that all the required relief could be granted by two (2) Special Permits, one pursuant to Section 5.43 and the other pursuant to Section 8.02.2 of the Zoning By-Law. Mr. Walters stated that the 280 Warren Street lot was unusually shaped; leading one to believe that the rear yard was actually the side yard. Mr. Walters stated further that the house is sited on the lot in such a way as to also make one believe the rear yard is actually the side yard. Mr. Walters added that if the proposed additions were in the side yard the setback requirement would be met, but due to the 50' rear yard setback requirement relief was needed. Mr. Walters stated that under Section 5.43 of the Zoning By-Law, the Board could waive dimensional requirements provided the applicants could offer some counterbalancing amenity. Mr. Walters stated that the counterbalancing amenity being proposed is additional landscaping, including new trees and shrubs which would serve to screen the additions as well as beautify the property. Mr. Walters added that given the secluded nature of the lot, it is unlikely that any abutter would be able to see the addition even without the proposed screening. Mr. Walters said that the garage and shed addition would have no impact upon any neighbor or the neighborhood. Mr. Walters added that a Special Permit under Section 8.02.2 was required since the applicants were extending an already non-conforming garage. Mr. Walters concluded by stating that the applicants have contacted all their abutters and are not aware of any opposition to their proposal.

The Chair then asked if any members of the public wished to be heard either in favor of or opposed to the requested relief. No one asked to be heard.

Planner, Courtney Starling, presented the Planning Board report. Ms. Starling stated that the Planning Board had no objection to the proposed additions as they are attractively designed and

are not expected to have a detrimental effect on the neighborhood. Ms. Starling stated further that the additions are designed to integrate well with the existing garage structure, and the dwelling complies with all floor area ratio regulations. The home is located on a very large, secluded lot and the additions will be well screened from view by vegetation in addition to a large accessory building on the abutting parcel. Ms. Starling concluded by stating that the Planning Board recommended approval of the plans entitled "The Wilde Residence" prepared by Noury-Ello Architects dated 9/4/08 and the site plan prepared by Everett M. Brooks Company dated 6/9/2008, subject to the following conditions:

1. Prior to the issuance of a building permit, final elevations of the garage shall be submitted to the Assistant Director for Regulatory Planning for review and approval,
2. Prior to the issuance of a building permit, a final landscaping plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval, and
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals Decision: (a) a final site plan stamped and signed by a registered engineer or land surveyor, (b) final building elevations stamped and signed by a registered architect, and (c) evidence that the Board of Appeals decision has been recorded at the Norfolk County Registry of Deeds.

The Chair then called upon Michael Shepard, Building Commissioner. Mr. Shepard stated that the Building Department looked carefully at the side yard and rear yards and determined that the additions were at the rear yard, due to the relationship of the lot to Warren Street. Mr. Shepard stated further that the lot is very secluded and the additions are well designed. Mr. Shepard concluded by stating that the Building Department supported the applicant's petition and the relief sought.

During deliberation, Board Member, Rob DeVries, stated that he had made a site visit and found the lot to be very attractive and saw no reason not to grant the relief sought. Kathryn Ham stated that she believed the applicants have provided more than adequate counterbalancing amenities to justify relief pursuant to Section 5.43 of the Zoning By-Law and also stated her support. The Chairman stated that she supported the applicant's proposal and noted that the relief required pursuant to Section 8.02.2 was de minimus. The Chairman concluded by stating that the Board found that grounds for the requested Special Permits were met, pursuant to Section 9.05 namely:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the board voted unanimously to grant all the Special Permit relief requested with the following conditions:

1. **Prior to the issuance of a building permit, final elevations of the garage shall be submitted to the Assistant Director for Regulatory Planning for review and approval,**
2. **Prior to the issuance of a building permit, a final landscaping plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval, and**
3. **Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals Decision: (a) a final site plan stamped and signed by a registered engineer or land surveyor, (b) final building elevations stamped and signed by a registered architect,**

and (c) evidence that the Board of Appeals decision has been recorded
at the Norfolk County Registry of Deeds.

Unanimous decision of
the Board of Appeals



Enid Starr, Chairman

Date of Filing: September 19, 2008

True Copy

ATTEST:



Patrick J. Ward

Clerk, Zoning Board of Appeals

RECEIVED
TOWN OF BROOKLINE
REGISTRARS OF VOTERS

08 SEP 19 AM 9:28